

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN SORTATION SYSTEMS,
PARTS THEREOF, AND PRODUCTS
CONTAINING SAME**

Inv. No. 337-TA-460

LIMITED EXCLUSION ORDER

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation and sale by Respondents Vanderlande Industries Nederland BV and Vanderlande Industries, Inc. (collectively referred to as "Vanderlande") of sortation systems and parts thereof by reason of infringement of claims I and 4 of U.S. Patent No. 5,127,510. Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of infringing sortation systems, and shoes and slats thereof, manufactured by or for Vanderlande. The Commission has determined that an exception to the limited exclusion order is warranted for sortation system parts imported for use as spare parts at the United Parcel Service (UPS) Hub 2000 facility in Louisville, Kentucky.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. § 1337 (d) do not preclude issuance of the limited exclusion order. Finally, the Commission has determined that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of any imported sortation systems and parts thereof (except exempted parts).

Accordingly, the Commission hereby **ORDERS THAT:**

1. Sortation systems, and shoes and slats thereof, covered by claims 1 or 4 of U.S. Patent No. 5,127,510 that are manufactured abroad and/or imported by or on behalf of Vanderlande, or any of its affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, *i.e.*, until October 31, 2010; except under license of the patent owner, as provided by law, or as exempted below. This exclusion order does not apply to sortation system parts imported for use as spare parts at the UPS **Hub** 2000 facility in Louisville, Kentucky. Persons seeking to import sortation system parts pursuant to this exemption are directed to utilize the certification procedure of paragraph 3 of this Order.

2. Sortation systems, and shoes and slats thereof, that are excluded by paragraph 1 of this Order

are entitled to entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), from the day after this Order is received by the President until such time as the President notifies the Commission that he approves or disapproves this action but, in any event, not later than sixty (60) days after the date of receipt of this action.

3. Pursuant to procedures to be specified by the U.S. Customs Service, as the Customs Service deems necessary, persons seeking to import sortation system parts as spare parts for the UPS Hub 2000 facility in Louisville, Kentucky shall certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, the Customs Service may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

4. In accordance with 19 U.S.C. § 1337(1), the provisions of this Order shall not apply to sortation systems, and shoes and slats thereof, that are imported by and for the use of the United States, imported for, and to be used for, the United States with the authorization or consent of the Government.

5. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

6. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

7. Notice of this Order shall be published in the *Federal Register*.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Marilyn R. Abbott', is written over a series of horizontal dashed lines.

Marilyn R. Abbott
Secretary to the Commission

Issued: January 27, 2003